

## GOA Groundfish Rationalization: Staff recommendations on Element 9. Communities

May 15, 2003

The purpose of this paper is to further clarify and/or refine the options applicable to communities as presented under Element 9 of the Council's Gulf of Alaska Groundfish Rationalization: Alternatives, Elements, and Options (version dated 4/7/03). The paper is organized into the four proposed categories of community protection options: regionalization, community fisheries quota (CFQ), community purchase program, and community incentive fisheries trust (CIFT). The shaded areas represent the element or option being considered, and staff discussion of that option follows. Staff has focused their efforts on identifying potentially problematic options due to data, implementation, or enforcement concerns, with special consideration given to the common elements of existing or proposed regulations governing communities.<sup>1</sup>

Overall, the analysts need to understand whether the Council intends to consider all four of the community protection options under Element 9 (regionalization, CFQ, community purchase program, and CIFTs) in conjunction with one another or whether it intends to consider some or all of the options only as alternatives to one another. This question is especially pertinent to the three proposed programs that affect harvester shares, and less so to the regionalization option, which affects processor shares. For instance, it is unclear whether the Council would consider selecting a CFQ program and a community purchase program, or whether the intent is that only one of these two programs would be selected. Another example is whether the Council intends to consider a CFQ program and a CIFT in conjunction with one another or whether these programs should only be analyzed discretely.

Note that under the current options, up to 50% of the total harvest shares could be reserved for communities if both the CFQ program and the CIFT were implemented. If communities were also eligible to purchase harvest shares, holdings by communities could potentially exceed 50%. The complexity associated with tracking and monitoring community held QS will also increase with several programs working simultaneously. If more than one community program is desired, it may be beneficial to establish consistent requirements and restrictions among the programs. **Clarification of the Council's intent, specifically, whether any of the proposed options may be selected in combination, is necessary for staff to analyze the cumulative impact of any and/or all of these options.**

**Staff has several suggestions for rewording the options so that they are easier to understand and analyze. These suggestions are made (using italics for additions and strikeout for deletions) in the options listed, with explanations provided in the following discussion. Staff also provides discussion regarding the analytical approach that will likely be used for some options. Staff should be informed if any of the recommendations or the described approach are inconsistent with the Council's intent.** In addition, staff provides some comparison to other existing and proposed programs, specifically the CDQ Program and Gulf community quota share purchase program (for halibut and sablefish), in order to facilitate a discussion about NMFS's ability to both implement and enforce several of these proposed options. This is consistent with the agency's need to identify potential implementation and enforcement obstacles early in the process.

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<sup>1</sup>Programs considered in evaluating the options under Element 9 were as follows: CDQ Program, Gulf community QS purchase program (draft proposed rule), and crab rationalization (final action taken by Council).

## **Element 9. Communities**

**NOTE: Bering Sea and Western Alaska CDQ communities may be excluded from the community programs.**

Staff interprets the statement above as notifying the public that BSAI communities (CDQ or otherwise) are not included in a Gulf of Alaska groundfish rationalization program. If so, the Council may want to reaffirm and strengthen this statement to indicate that BSAI and CDQ communities will not be included. Staff understands this program as applicable only to those communities that are located in the Gulf of Alaska management areas identified under Alternative 2, 3 or 4: Western Gulf, Central Gulf, and West Yakutat.<sup>2</sup> Communities in these areas are adjacent to statistical areas 610, 620, 630, and 640 (see Attachment 1). This would not include communities located adjacent to the BSAI statistical and reporting areas.<sup>3</sup> By definition of the program, CDQ communities are located in the BSAI. It would also not include communities adjacent to the Eastern GOA Regulatory Area Southeast Outside District (Area 650). The Council does not currently include Southeast Outside (SEO) in the identified management areas for gulf rationalization, except for the purpose of managing bycatch of shortraker, rougheye, and thornyhead rockfish. **If any of these are incorrect assumptions, staff should be notified prior to developing the analysis.**

## **Option 1. Regionalization**

**The following applies to both Central and Western Gulf areas:**

- **If adopted, all processing share allocated to shorebased processors will be categorized by region.**
- **Processing shares that are regionally designated cannot be reassigned to another region.**
- **Catcher vessel harvest shares are regionalized based on where the catch was processed, not where it was caught.**
- **Catcher processor shares and incentive fisheries are not subject to regionalization.**
- **Qualifying years to determine the distribution of shares between regions will be consistent with the preferred alternative under "Element 1, Qualifying Periods".**

**Central Gulf:** Two regions are proposed to classify harvesting and (if adopted) processing shares: North - South line at 58° 51.10' North Latitude (Cape Douglas corner for Cook Inlet bottom trawl ban area).

**The following fisheries will be regionalized for shorebased catch and subject to the North - South distribution: Pollock in Area 630; CGOA flatfish (excludes arrowtooth flounder); CGOA Pacific ocean perch; CGOA northern rockfish and pelagic shelf rockfish (combined); CGOA Pacific cod (inshore); GOA sablefish (trawl); WY pollock**

**Western Gulf:** **The following fisheries will be regionalized for shorebased catch: Pacific cod in Area 610; pollock in Area 610; pollock in Area 620**

**Option 1. Dutch Harbor (Akutan)/Sand Point**

**Option 2. Kodiak/Sand Point**

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<sup>2</sup>Yakutat is located on the boundary of WY and SEO, but is technically located within SEO (Gulf Area 650). However, staff notes that, based on the Council's expressed preference, Yakutat will be included for consideration of the community options for the Gulf rationalization program.

<sup>3</sup>The Bering Sea Subarea of the BSAI includes that portion of the EEZ contained in statistical areas 508, 509, 512, 513, 514, 516, 517, 518, 519, 521, 523, 524, and 530. The Aleutian Islands Subarea includes that portion of the EEZ contained in statistical areas 541, 542, and 543. (50 CFR 679.2)

### **Option 3. Both**

Staff understands the regionalization option for the **Central Gulf** to mean that there would be a 'north' and 'south' region, as delineated by the line at 58° 51.10' North Latitude (see Attachment 2). In effect, the distribution of processing that occurred between regions during the qualifying years selected in the preferred alternative under Element 1 would be maintained under this provision. This provision does not identify specific communities in which processing must occur, it only ensures that the distribution of processing that historically occurred south (and north) of the designated line will continue to occur under the Gulf Rationalization program. This provision applies only to the species identified above.

No regional boundaries have been identified for the **Western Gulf** at this time. The Council noted that boundaries would be defined at its June meeting. Without clear boundaries, it is not possible to analyze regionalization specific to the Western Gulf, although analysis of the impact of the regionalization option for the Central Gulf may proceed in the absence of Western Gulf boundaries. Staff assumes that Options 1- 3 are placeholders for specific boundaries to notice the public of the general intent of regionalized shares for the Western Gulf. At the time the specific boundaries (lat/long) are proposed, these placeholders will no longer be necessary. Staff did not think it was appropriate to suggest boundaries to meet the intent of this option, but a detailed map of the Gulf of Alaska is provided to aid in boundary identification by the Council and the public.

### **Option 2. Community Fisheries Quota (CFQ)**

#### **Issue 1. Administrative Entity**

- Option 1. Gulf wide administrative entity
- Option 2. Regional administrative entities (Western Gulf, Central Gulf, Eastern Gulf)
- Option 3. Community level

#### **Issue 2. Eligible Communities (GOA communities only)**

##### **Option 1. Population (based on 2000 U.S. Census)**

- a. Less than 1,500 residents
- b. Less than 2,500 residents
- c. Less than 5,000 residents
- d. Less than 7,500 residents

##### **Option 2. Geography**

- a. Coastal communities without road connections to larger community highway network
- b. Coastal communities adjacent to salt water
- c. Communities within 10 miles of the Gulf coast
- d. Communities on the south side of the Alaska Peninsula that are adjacent to the Central and Western GOA management areas (including Yakutat), within 5 nautical miles from the water, but not to include Bering Sea communities included under the CDQ Program

##### **Option 3. Economy (based on all fisheries) (propose to eliminate, see p. 5)**

Staff will analyze other proxies that could be used to describe fishery dependence, such as the number of permits as a proportion of the population, historic processing, fishing data, or other data sources.

		<ul style="list-style-type: none"> <li>a. GOA fisheries-dependent communities defined as communities with a range of 10 - 30 percent of their base industry economy in harvesting or processing related activities</li> <li>b. GOA fisheries-supplemented communities defined as communities with a range of 5 - 10 percent of their base industry economy in harvesting or processing related activities</li> <li>c. All GOA communities</li> </ul>
<b>Issue 3.</b>	<b>Species</b>	
	Option 1.	All rationalized groundfish species
	Option 2.	Limited to species that can be caught without (hard on) bottom trawling
<b>Issue 4.</b>	<b>Allocation</b>	
	<b>Harvester Shares:</b>	
	Option 1.	5% of annual TAC
	Option 2.	10% of annual TAC
	Option 3.	15% of annual TAC
	Option 4.	20% of annual TAC
	<b>Processing Shares:</b>	
	Option 5.	5% of annual processing allocation
	Option 6.	10% of annual processing allocation
	Option 7.	15% of annual processing allocation
	Option 8.	20% of annual processing allocation
<b>Issue 5.</b>	<b>Harvesting of Shares</b>	
	Option 1.	Limited to residents of eligible communities that own vessels
	Option 2.	Limited to residents of eligible communities
	Option 3.	No limitations on who harvests shares
<b>Issue 6.</b>	<b>Use of Revenues</b>	
	Option 1.	Community development projects that tie directly to fisheries or fishery related projects and education.
	Option 2.	Community development projects that tie directly to fisheries and fisheries related projects, education, and government functions.
	Option 3.	Education, social and capital projects within eligible communities as well as governmental functions.

The intent and structure of the **CFQ program option** is most similar to the current Western Alaska CDQ Program, in that the quota (as a percentage of the annual TAC), is allocated directly to the administrative entity representing one or more communities. Most regulations relevant to the program would then apply to this administrative entity rather than the eligible community itself. However, in contrast to the CDQ Program, the current list of options does not include requirements regarding the make up of this entity or how it makes

decisions.<sup>4</sup> Moreover, while the type of allocation program proposed mirrors the CDQ Program, the current options do not pose similar administrative oversight or information requirements. This may be a reasonable approach in that the Western Alaska CDQ Program is likely a much larger program in terms of the value of the allocations and the revenues generated from those allocations<sup>5</sup> than the proposed CFQ program in the Gulf of Alaska. Because of the relative value of the CDQ Program, the potential losses are much greater and thus may warrant a higher level of government oversight. (Increased government oversight would still be necessary under a CFQ program if the Council wants to restrict the type of project on which an administrative entity can spend its revenues, but it may not warrant the same level as the CDQ Program. This is discussed further under Issue 6.)

Under **Issue 1**, three potential administrative entities are identified to receive and hold quota share (QS) on behalf of an eligible community or communities. The intent is for the entity to lease the resulting IFQs to residents of the eligible community or other eligible recipients. **Staff assumes that Options 1 - 3 under Issue 1 are not mutually exclusive;** thus, the Council could select one or more of these options and allow the eligible community to choose how it wants to organize itself within the bounds of the preferred options. In effect, the Council could select all three options and give eligible communities the opportunity to consolidate as much as is politically and logistically feasible. Given that the administrative costs of organizing and managing a representative entity may be fairly high in some communities, it may be important to allow this flexibility and not limit the choices to the Council at this point.

The current options under **Issue 1** also do not specify how NMFS will determine whether an administrative entity is deemed 'qualified' to represent a community or group of communities. In the Gulf community QS purchase program for halibut and sablefish, the entity is required to submit a detailed statement of eligibility to NMFS, including; (1) articles of incorporation as a non-profit entity within the State; (2) a statement designating the community or communities represented by that non-profit entity; (3) management organization; (4) the names, addresses, and affiliation of its board of directors or other governing body; (5) a detailed statement describing the procedures that will be used to determine the distribution of IFQ to residents of the community; and (6) a statement indicating support for and accountability of the non-profit entity to that community from a governing body representing the community. While the Gulf community QS purchase program for halibut and sablefish may have different overall requirements (e.g., the administrative entity must be a newly-formed non-profit organization; the entity can only lease IFQs to residents of its member communities), **the proposed CFQ Program will also require a process in which administrative entities can be qualified by NMFS to represent one or more eligible communities.**

In addition, the Gulf community QS purchase program specifies that while several entities may apply for status as a qualified administrative entity, only one may represent a given community. Thus, under that program, the first entity that meets the eligibility requirements will be deemed qualified by NMFS to receive QS on behalf of the community(ies) it represents. Note that one of the qualification requirements is that the administrative entity receive and submit to NMFS a statement of support from the governing body of each community it wants to represent. Because each governing body can only support one administrative entity, the entity which receives

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<sup>4</sup>The CDQ Program requires that a 'qualified applicant' for CDQ allocations must be a local fishermen's organization or a local economic development organization incorporated under Alaska state law or Federal law. It may be a for-profit or a non-profit corporation, and the board of directors must be at least 75 percent resident fishermen, with one board member from each represented community. Under State regulations, the Board is required to have established investment criteria and to consider that criteria in its decision making.

<sup>5</sup>The 2002 total revenues from the six CDQ groups combined is almost \$70 million (from the 4<sup>th</sup> Quarter 2002 reports, unaudited as of 5/27/03).

this statement, and meets the other qualification requirements, will be deemed the qualified entity to receive QS on behalf of the community or communities. This approach is also used in the Western Alaska CDQ Program.

This approach mitigates the need for NMFS to develop a separate process for evaluating and selecting one of several entities competing to represent the same community(ies). It also gives the governing body of the community control over the entity to which they will entrust the responsibility of managing and distributing quota share. Because small, remote communities are not always organized similarly, incorporated, or may have several governing bodies, it is also necessary to determine the type of governing body that will speak on behalf of the community. The Gulf community QS purchase program regulations will establish a hierarchy that specifies the type of governing body that can recommend a non-profit entity, depending on the governance structure of the particular community. It is anticipated that this same approach would also be employed under the proposed CFQ program for Gulf rationalization.

**Given the concerns encountered previously in somewhat similar community programs, the Council may want to: 1) include options for minimum requirements to guide NMFS in its determination of a qualified administrative entity, or 2) provide rationale as to why these requirements were necessary in prior programs but are not warranted here.**

Under **Issue 2**, staff suggests stating explicitly that only GOA communities in the Western, Central, and West Yakutat management areas will be considered for inclusion under a Gulf rationalization program (unless the Council adds specific individual communities for inclusion). Staff also suggests revising **Option 1 (a - d)** to delete the word ‘resident’ and add that the population of the community will be determined based on the most recent (2000) U.S. Census data. This is consistent with the Gulf community QS purchase program method by which to determine eligible communities and mitigates problems with petitions by individuals who do not live in a Census Designated Place. In addition, because some coastal communities’ overall population numbers may vary widely depending upon whether seasonal residents are considered, use of the U.S. Census data provides consistency and mostly mitigates problems with determining total population numbers. (The State of Alaska also uses the U.S. Census data to report population numbers for the CDQ communities, but considers significant evidence if it demonstrates that the population would vary by season.) In effect, should a community maintain that its actual population differs significantly from the report of the U.S. Census, the burden would be on representatives of the community to provide evidence to that fact.

Experience with prior programs (Gulf community QS purchase, CDQ Program, and the recent halibut subsistence action) has also shown that it may be necessary to establish a minimum population size to determine whether a place is a designated ‘community’. This provision would be similar to that established by the State of Alaska for defining a community for revenue sharing purposes.<sup>6</sup> The limitation on minimum population size would reduce the potential for future petitions for inclusion into the program by a small group of individuals living in a place solely for the purpose of participating in the program. It is anticipated that this approach will be used for any option which necessitates a determination of ‘eligible community’ under the Gulf rationalization program.

**Under Issue 2, Option 2(d), staff suggests revising the wording to: “Communities within 5 miles of the Gulf coast.”** Staff is uncertain as to the need for additional language in (d), if the Council confirms that any community program is applicable only to those communities that are located in the Gulf of Alaska management areas identified under Alternative 2, 3, or 4: Western Gulf, Central Gulf, and West Yakutat. As Gulf

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<sup>6</sup>Alaska Statute (AS) defines a community as a place where more than 25 people reside as a social unit (AS 29.60.120), and current Alaska Administrative Code (AAC) defines a “social unit” under 3 AAC 130.093.

communities in these specific areas, all of the eligible communities would be located on the south side of the Aleutian Islands, Alaska Peninsula, or continental Alaska as defined by statistical areas 610, 620, 630, and 640 (see Attachment 1 for figures and coordinates). As CDQ communities are by definition located in the Bering Sea/Aleutian Islands, CDQ communities are inherently excluded from the definition of a GOA community. In addition, staff recommends changing the option to reference five (statute) miles from the coast, as opposed to nautical miles, since only distances at sea are measured in nautical miles.

Staff has already apprised the Council that **Issue 2, Option 3** will not be possible to analyze due to data limitations and will require a fairly substantial amount of staff time with limited benefit. The Gulf community QS purchase program included a similar option for consideration: “communities must be fisheries dependent as determined by fishing as a principle source of revenue to the community.” That analysis showed that this criterion is relatively ambiguous and not well-suited to a quantitative assessment; thus, it was not used as a criterion by which to evaluate community eligibility. Even though Option 3 specifies the range of revenues that constitutes fisheries dependence in this case, it is not possible to accurately determine the percentage of annual revenues for each community that may be attributed to fisheries.

Further, this may not be a necessary step to determining fisheries-dependence, as annual revenues and other economic indices are not the only relevant indicators to determine fishing dependence. The National Research Council reports on the issue of fishing-dependent communities, that for small, isolated communities such as many of those in Alaska: “the notion of dependency may include geographic isolation; lack of employment alternatives; social, economic, and cultural systems that have developed in these locations; and their dependence on fishing as a source of nutrition, livelihood, and life-style.”<sup>7</sup> NOAA also recognizes that these same types of indicators, either the level and type of fishery related activity, or the economic, social and/or cultural role and importance of fisheries, can be used to define a “fishing dependent community”.<sup>8</sup>

This point has spurred the inclusion of the statement under Issue 2, Option 3, that staff will analyze other proxies that could be used to determine fisheries-dependent communities. This could also be a time consuming process, as staff will need to plan to develop reasonable proxies in consultation with the interested public and present some measure of dependence in the analysis for consideration by the Council. In the Gulf community QS purchase program for halibut and sablefish, eligible communities must have had historic participation in the halibut or sablefish fisheries, defined by a recorded commercial landing of either halibut or sablefish between 1980 - 2000 according to Commercial Fisheries Entry Commission (CFEC) data for permit and fishing activity. This definition provided a means for the Council to consider those communities for which halibut or sablefish has some historic importance, but was not purported to represent fisheries dependence. This is an example of the type of proxy that may be applicable in the Gulf CFQ program.

Overall, the desire for inclusion of the proposed criteria is understandable, as the Council may want the option to select only communities that have some proven level of dependence on fisheries in the GOA. However, concerns with staff’s ability to provide sufficient data to prove a specific level of dependence, combined with the relative necessity of this data in the context of the overall analysis, may warrant eliminating this criterion (Option 3) from the options for analysis. In order to provide some perspective on the number of communities involved, staff has provided a list of potentially eligible communities that appear to meet the least restrictive

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<sup>7</sup>Sharing the Fish, National Research Council, 1999, p. 19.

<sup>8</sup>NOAA Fisheries (HQ) is currently developing a Sociocultural Practitioner’s Manual to assist in data collection and analysis related to the social and cultural sections required by NEPA and the Magnuson-Stevens Act. This manual is currently in draft form and is expected to be published sometime in 2003.

criteria proposed under Issue 2<sup>9</sup> and are Census Designated Places, without taking into account fisheries dependence. **Staff has identified 29 coastal communities in the Western Gulf, Central Gulf, or Western Yakutat management areas that may meet this criteria (see Attachment 3). This represents an estimate of the maximum number of communities at issue, without accounting for fisheries dependence.**<sup>10</sup>

**Should the Council retain Option 3 as a potential criterion, staff recommends deleting (c), as it is not necessary and may be confusing in combination with the other options.** If at final action the Council decides not to apply an economic threshold by which to determine eligible communities, it would exercise that option by simply not choosing Option 3.

Finally, consistent with previous actions on community programs, staff also suggests providing an explicit list of all eligible communities in the Council's preferred alternative at final action. In effect, an eligible community would have to meet the eligibility criteria and be included on the list (which would be part of the final rule). Any additional communities that want to be included in the program after final action would be required to petition the Council for inclusion using the normal Council process. Requiring each community to be on the Council's list of eligible communities eliminates any ambiguities regarding whether a community is believed to have met the eligibility criteria at the time of final action and defines a process by which non-eligible communities can petition their status within the program.

Staff has no recommendations under **Issue 3** or **Issue 4**, other than to request that the Council provide rationale for the inclusion of Issue 3, Option 2 in the community protection options. Providing rationale for this option would guide staff as to whether this is the appropriate analytical document in which to address this issue.

Under **Issue 5**, there are three options by which to limit the harvest of CFQs. While it is clear that the options delineate a decision as to whether CFQs can be leased to residents of non-eligible communities, Council intent remains unclear whether Option 1 or 2 would restrict the administrative entity to leasing CFQs only to residents of the particular eligible community or communities it represents.

A common element to many of the Council's prior and proposed actions regarding communities is the identification of a legal administrative entity that represents the community in a fishery allocation program. In the CDQ Program, the CDQ group can lease CDQ to any licensed fisherman or entity, regardless of the community in which the fisherman or entity may reside. Some CDQ, such as halibut, is leased to resident fishermen if there exists a resident fleet, while most groundfish CDQ is leased by catcher processors or large catcher vessels that deliver to shoreside processing plants in relatively large ports. Overall, the CDQ group is responsible for showing how its activities meet the goal of the program and benefit its member (eligible) communities, whether it is through promoting small boat fisheries for local residents or using CDQ royalties to fund activities and projects in the communities.

In contrast, under the Gulf community QS purchase program, the overall goal is to sustain community residents' participation in the halibut and sablefish fisheries. To meet this objective, the Council specified that a new non-profit entity must be formed to represent one or more eligible communities, and that leasing of the

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<sup>9</sup>The least restrictive combination of criteria under Issue 2 is as follows: 1) population of fewer than 7,500; 2) no road connections to larger community highway network; and 3) within 10 miles of the Gulf coast.

<sup>10</sup>Staff notes that all but four of the twenty seven communities on the draft list have commercial permit and fishing activity as documented by CFEC in the last ten years (1993 - 2002). All but seven are determined by the State of Alaska to have met the customary and traditional use threshold for halibut. Only four communities did not meet either threshold.



annual IFQs shall be limited only to the residents of the ownership community. In effect, the entity could not lease IFQs to another eligible Gulf community that it does not represent.

The goal of the program, the communities involved, and the scale of the fisheries at issue appear to have been the main determinants for whether to limit leasing to community residents in previous programs. While this issue will be explored in detail in the analysis, **the Council should clarify at this point whether Option 1 and 2 under Issue 5 restrict the leasing of annual IFQs to residents of any eligible Gulf community or just those eligible communities that the entity represents.<sup>11</sup>**

Staff also assumes that should Option 1 or Option 2 be selected under Issue 5, implementation of the leasing restrictions which would directly tie the use of IFQ to the residents of a given community would be similar to the Gulf community quota share purchase program. In order to address the difficulties associated with proving that a person is a resident of a particular community, the regulations implementing this program will require that an individual provide a statement that they are a U.S. citizen, maintain a permanent mailing address and domicile in the community of interest, and are qualified to receive IFQ under the existing regulations.

**Issue 6** poses implementation and enforcement concerns that may be worth considering early in the process. The options under this issue propose to restrict the type of activity on which an administrative entity may spend its revenues. It would therefore require NMFS to make a judgement about whether an activity or expenditure of an administrative entity representing a community complies with regulations describing permissible uses of revenues. This provision is similar to the existing CDQ Program, which requires that CDQ groups must invest primarily in fisheries-related projects, but typically allows for a lesser level of investment in financial instruments, charities, training, education, and administrative expenses. While these types of non-fisheries related activities have not been discouraged by State or Federal managers, they are not currently clearly identified in regulation as categorically exempt from the requirement that CDQ projects be fisheries-related.

The ‘lessons learned’ associated with the implementation of these restrictions in the CDQ Program are valuable. One primary lesson is that the rules and regulations governing how the community groups spend revenues must be clear and interpreted in a consistent manner. The CDQ Program was recently reviewed and modified by the Council in June 2002. One of the modifications to the program was to explicitly outline in regulation the fisheries and non-fisheries related activities and projects on which the CDQ groups may spend revenues. In the past, there have been concerns regarding the threshold used to determine ‘fisheries related’ projects, as well as questions about non-fisheries related activities that have been generally accepted by the State CDQ Team but not described in regulation.

While the addition of explicit regulations governing allowable investments and expenditures will help to more effectively implement the CDQ Program, there remain several questions regarding the type of activity that would qualify under each category of allowable investment. For instance, whether “education” means education services and curriculum development, which are common investments by CDQ groups, or whether it also includes infrastructure and capital development projects. The need to clarify allowable uses also exists under proposed Issue 6, Options 1 - 3 for the Gulf rationalization program. As currently stated, it would be extremely difficult to implement meaningful, enforceable regulations consistent with the proposed options.

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<sup>11</sup>Staff also notes that the proposed Gulf rationalization program may include QS for both target and bycatch species. The current options propose to restrict leasing of IFQ held by communities only to eligible community residents. Inclusion of bycatch species in this program may necessitate eliminating this restriction in the case of bycatch species IFQ and allowing leasing of bycatch species IFQ between any and all QS holders. This issue will be addressed in the analysis.

**Comprehensive definitions of “education,” “governmental functions,” and “social and capital projects” need to be developed. Unless these terms are explicitly defined for analysis, a community could justify using its CFQ revenue on practically any project under the criteria in Option 2 or Option 3. In addition, the Council may want to add an option which would allow community entities to use revenues for purposes of program administration.**

A second lesson relates to the cost and staff time associated with implementing (and enforcing) this type of provision. While the initial task of qualifying administrative entities to represent one or more communities will require additional staff time and effort on behalf of NMFS, it is assumed that the actual transfer of QS to eligible community entities would be similar in process to that necessary for individual quota share holders in the rationalization program. However, while limiting the use of revenues to fisheries related or other activities may be an appropriate policy goal, it does necessitate an additional level of government oversight. This is because it requires that agency staff make a judgement about whether each activity of a community group complies with the regulations. Thus, while clear rules and regulations are beneficial, restrictions such as these also require available staff to review the information submitted by the community group relevant to their investments and activities and to follow up on any perceived problems.

Should this level of administrative oversight be deemed necessary, the structure is not yet addressed in any of the proposed options. Government oversight in the CDQ Program, for example, has two primary elements: (1) requirements to provide information to the government about the activities of the CDQ groups, their affiliated businesses, and vessels and processors participating in the CDQ fisheries; and (2) requirements that certain activities by the CDQ group and their subsidiaries be approved by the State of Alaska and NMFS before they are undertaken. As noted previously, however, the CDQ Program is likely a much larger program in terms of the value of the allocations and the revenues generated from those allocations than the proposed CFQ program in the Gulf of Alaska. In addition, CDQ is not required to be leased to eligible community residents due to various reasons, thus, there must be sufficient oversight to verify the link between benefits derived from the program and eligible communities. Given the differences in the CDQ Program, it may warrant a higher level of government oversight and accountability than is necessary in the GOA program.

Despite the likely differences in scale between the CDQ Program and the proposed CFQ program in the Gulf of Alaska, implementing and enforcing a provision which limits the use of revenues by Gulf communities to certain activities will require an increased level of oversight. Thus, the feasibility and implementation issues associated should be fully considered when developing this option for analysis. **In sum, including restrictions on the use of revenues necessitates a higher level of government oversight than would likely otherwise be necessary under the program. The Council should identify whether these restrictions are necessary and, if so, provide rationale for their inclusion in the program.**

Another fundamental component of the CDQ Program is the competitive allocation process. Currently, the allocation process is the mechanism by which the CDQ groups’ investments are kept within the bounds of the program’s intent. The State makes complicated, multi-criterion decisions in allocating quota to CDQ groups, with final approval by NMFS. Related to this issue is the determination of which types of projects should be considered fisheries-related, and whether the CDQ groups have complied with the regulations limiting their use of revenues. Thus, in order to implement a regulation which prohibits some activities by a community entity, one must have an administrative structure by which to evaluate an entity’s activities and enforce the regulation. In the CDQ Program, the allocation process can act as means to ‘penalize’ a CDQ group if its activities are not found to be consistent with the program’s intent and regulations.

In the proposed Gulf rationalization CFQ options, however, it is unclear whether the allocations of CFQ would be competitively based or divided equally among community entities. There are no options proposed for establishing a method by which to allocate QS among individual communities, nor is there proposed any other mechanism by which a community entity's CFQ could be reduced or eliminated should the entity not comply with the revenue or other restrictions. Unless the CFQ allocations are intended to be made in perpetuity, the Council may also want to consider including options which would require a community entity to submit relevant and sufficient information by which agency managers could evaluate whether an entity is meeting the requirements of the program.

**A comparison of program elements within the CDQ Program, Gulf community QS purchase program, BSAI Crab Rationalization Program, and the community programs proposed under Gulf rationalization is provided in Attachment 4.** This comparison identifies the primary elements included in existing programs and is intended to help assess whether additional elements need to be included in the proposed options for community programs under Gulf rationalization.

**In summary, the differences in the elements of the programs (shown in Attachment 4) may be linked to the different policy objectives associated with each program.** For instance, the CDQ Program has fairly rigorous monitoring and reporting requirements because: it directly allocates a public resource to groups of communities in those particular fisheries; it is a large scale program which generates significant revenues for the CDQ groups; it limits the spending of those revenues to permissible activities; and, NMFS must ensure that the benefits from the program are provided to the residents of the communities in the manner determined by the Council. The purpose of the program to benefit member communities thus drives the need for particular requirements or elements, specifically those related to accountability and government oversight.

Another example is the Gulf community QS purchase program, the purpose of which is to sustain participation in the halibut and sablefish fisheries by eligible communities. This program requires a lesser level of accountability than the CDQ Program, likely for several reasons: community groups are purchasing quota share within the existing IFQ Program as opposed to being granted a direct allocation; there are no restrictions related to how the community entity can spend revenues; and, the program is not expected to generate a comparable revenue base for the administrative entities. Because the fisheries at issue in the Gulf community purchase program are smaller in scale, and because the program requires that the IFQs must be leased to community residents, it is not anticipated that the administrative entity will derive substantial revenues from the leasing of IFQ. Rather, the restriction on leasing is intended to ensure that community residents will have the opportunity to sustain their participation in the halibut and sablefish fisheries. (Which is a much different goal than trying to maximize royalties from leasing quota share.) Therefore, while the level of government oversight and control over communities purchasing QS under that program is greater than that to which individual QS holders are subject, it is still a much lower level of oversight than is required in the CDQ Program.

It is assumed, if not always stated, that the policy objectives of the different programs drive the various levels of government oversight and other program restrictions. Thus, the process of reflecting upon the benefits realized by requiring a certain level of oversight or restrictions on the use of revenues among various programs is very valuable. Engaging in this process may assist the Council in the development of community options under Gulf rationalization by helping to determine the responsibilities of the government related to oversight that are necessary and appropriate to meet the different policy objectives of each of the proposed community programs. Including a statement on the overall goal or purpose of each of the proposed community program options would help in developing appropriate program elements to meet the stated goal.

For instance, one thing to consider in the approach to developing the options for the CFQ Program is whether the goal of the program is: (1) to provide sustained participation in the Gulf of Alaska fisheries by local resident fleets of eligible communities; (2) to provide new or enhanced opportunities in the Gulf of Alaska fisheries by local resident fleets of eligible communities; (3) to provide benefits, in the form of revenues, investments, or other activities, to the eligible communities; or (4) something else.

### **Option 3. Community Purchase Program**

#### **Issue 1. Eligible Communities (GOA communities only)**

##### **Option 1. Population (based on 2000 U.S. Census)**

- a. Less than 1,500 residents
- b. Less than 2,500 residents
- c. Less than 5,000 residents
- d. Less than 7,500 residents

##### **Option 2. Geography**

- a. Coastal communities without road connections to larger community highway network
- b. Coastal communities adjacent to salt water
- c. Communities within 10 miles of the Gulf coast

##### **Option 3. Economy (based on all fisheries)**

Staff will analyze other proxies that could be used to describe fishery dependence, such as the number of permits as a proportion of the population, historic processing, fishing data, or other data sources.

- a. GOA fisheries-dependent communities defined as communities with a range of 10 - 30 percent of their base industry economy in harvesting or processing related activities
- b. GOA fisheries-supplemented communities defined as communities with a range of 5 - 10 percent of their base industry economy in harvesting or processing related activities
- c. All GOA communities

With regard to the existing proposed options, staff recommends the same modifications to Option 1 and Option 3 as proposed under the CFQ program options. This includes the recommendation to state explicitly that only GOA communities in the Western, Central, and West Yakutat management areas will be considered for inclusion under a Gulf rationalization program.

Overall, the effect of the current options for the Community Purchase Program is limited to selecting criteria by which to identify eligible communities to purchase and hold quota share for lease to eligible recipients. Beyond identifying eligible communities, there is no proposed structure to the program. Should the Council want to select a community purchase program in the preferred alternative, it will also need to develop the specific elements of the program that the Council would like to apply. For instance, similar to the CFQ program, the Council should define or identify an administrative entity to purchase, hold, and lease the QS/IFQ on behalf of the eligible communities. In addition, the Council may want to consider whether to require other restrictions or provisions that are currently proposed in the CFQ program or the Gulf community QS purchase program (GOA Am. 66) that the Council approved in April 2002.

As stated previously, a comparison of program elements within existing community programs and the community programs proposed under Gulf rationalization is provided in Attachment 4. This comparison identifies the primary elements common to community programs and is intended to help assess whether additional elements need to be included in the proposed options for community programs under Gulf rationalization. Because the community purchase program identified in Option 3 is lacking all elements of a program structure except for the criteria to determine eligible communities, it may benefit the Council to evaluate the elements in existing programs and decide if any of these elements are worth mirroring or modifying for inclusion.

#### **Option 4. Community Incentive Fisheries Trust (CIFT)**

The CIFT has full ownership of CIFT harvest shares and holds these shares in trust for the communities, processors, and crew members in the region to use a leverage to mitigate impacts directly associated with the implementation of a rationalization program.

#### **Issue 1. Harvest Share Distribution**

**Option 1.** 10 - 30 percent of harvest shares shall be originally reserved for GOA CIFT associations. These harvest shares will be subtracted from the overall pool before the individual distribution of harvest shares.

#### **Issue 2. CIFT Designation**

**Option 1.** One CV CIFT for the GOA (excludes SEO)

**Option 2.** Regional CV CIFTs:

**Suboption 1.** Central GOA (Kodiak, Chignik)

**Suboption 2.** Western GOA

**Suboption 3.** North Gulf Coast (Homer to Yakutat)

**Option 3.** CP-based CIFT

**Defer remaining issues to a trailing amendment.**

Staff has no recommendations for the CIFT options at this time, noting that the some of the fundamental elements of this program have been deferred to a trailing amendment. As the options are currently proposed, staff anticipates analyzing only the basic allocation issue (i.e., how much QS each potential CIFT region would receive) and the CIFT designation. The effectiveness of this option will rely heavily on the extensive administrative process and structure that is necessary to implement this program, as well as the level of governmental administrative oversight required for reviewing, certifying, and monitoring the CIFT. If selected, the majority of these issues will need to be further defined in the options for the trailing amendment.

#### **Summary**

The following represent clarifications or suggestions noted by staff in this paper:

#### General

1. Clarify whether the proposed community options (regionalization, CFQ, community purchase program, CIFTs) are exclusive or whether they may be selected in conjunction with one another.
2. Reaffirm that BSAI communities (CDQ or otherwise) are not included in any Gulf rationalization community protection options. Clarify that communities adjacent to the Eastern GOA regulatory area Southeast Outside District are also not included.
3. Accept or deny staff's rewording/reorganization throughout Options 1- 4.
4. Provide a statement on the overall goal or purpose of each of the proposed community program options in order to guide development of necessary and appropriate program elements.

#### Regionalization options

5. Provide regional boundaries for the Western Gulf, if desired.

### Community Fisheries Quota (CFQ) options

6. Confirm that Options 1 - 3 under Issue 1 are not mutually exclusive; meaning, the Council could select all three options and allow the eligible community to choose how it wants to organize within the bounds of the preferred option(s).
7. Provide options for requirements to determine qualified administrative entities representing communities (p.5) or rationale as to why they are unnecessary.
8. Determine whether to eliminate Issue 2, Option 3 (economic criteria for fisheries dependent communities) under the CFQ program.
9. Provide rationale for including Issue 3, Option 2 (limiting species to those that can be caught without bottom trawling).
10. Clarify whether Issue 5, Options 1 and 2, restrict an administrative entity to: 1) leasing IFQ only to residents of the community or communities it represents or 2) leasing IFQ only to residents of any eligible community.
11. Provide more detailed definitions under Issue 6, Options 1-3, of the following: 'education', 'government functions', 'social and capital projects.'
12. Determine whether restrictions on the use of revenues is necessary to meet the policy objectives of the CFQ program. If so, provide options for government oversight (i.e., information requirements) and supporting rationale.
13. Review the comparison of existing and proposed community programs in Attachment 4 to determine whether additional elements need to be included in the proposed CFQ program.

### Community Purchase Program options

14. The current options only define community eligibility. Determine whether to approve additional elements to define the structure of this program (see Attachment 4).

### **List of Attachments**

Attachment 1: Figure 1 to 50 CFR Part 679 - BSAI Statistical and reporting Areas map and coordinates  
Figure 3 to 50 CFR Part 679 - GOA Statistical and reporting areas map and coordinates

Attachment 2: GOA Map with Central Gulf regionalization option delineated

Attachment 3: Draft list of WG, CG, and WY communities that meet the following criteria: 1) population of fewer than 7,500; 2) no road connections to larger community highway network; and 3) within 10 miles of the Gulf coast

Attachment 4: Comparison of program elements in existing and proposed community fisheries programs: Western Alaska CDQ Program; Gulf community QS purchase program (Am. 66); BSAI Crab rationalization, proposed Community Fisheries Quota program; proposed Community Purchase Program; and proposed CIFT program.